THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.17046 of 2007

Dt: 23.08.2007

Between:

G.V.Nageswara Rao.

.. Petitioner

and

The Election officer,
The Repalle Co-operative Bank,
Repalle,
Guntur District and another.

.. Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.17046 of 2007

ORDER:

The petitioner is a member of the Repalle Co-operative Bank Limited, Guntur District. The elections to the Managing Committee of the Bank became due. Since the Bank is not receiving any financial aid, the outgoing managing committee had appointed an Election Officer-1st respondent to conduct elections as provided under Rule 22 (1) (a) of A.P.Co-operative Societies Rules, 1964 (for short 'the Rules').

The 1st respondent published the final voters list as well as an election programme on 03-08-2007. The petitioner challenges the election programme and others steps taken by the 1st respondent on the ground that they are violative of byelaw 28(1) of the bye-laws of the Bank. It is stated that according to byelaw 28(1), voters of the Society are to be divided into 11 parts and elections be held thereafter; and that in the present elections, such an exercise was not undertaken.

The 1st respondent filed a counter affidavit. It is stated that though the division as contemplated under byelaw 28(1) was undertaken in the year 1997, in the subsequent elections conducted in the year 2002, it was not adhered to. It is submitted that in view of the amendment caused to the A.P. Co-operative Societies Act and Rules, 1964, the steps contemplated under byelaw 28 cannot be followed.

Sri V.Madhusudana Rao, learned counsel for the petitioner, submits that under Rule 22(1)(a) it is obligatory on the part of the 1st respondent to follow the bye-laws and division of wards is mandatory under Byelaw 28(1).

Smt.Bobba Vijaya Lakshmi, learned counsel for the respondents, on the other hand, submits that byelaw 28 is only directory in nature and to certain extent, it does not accord with the Act and Rules. She contends that though the voters were divided into 11 parts in the year 1997, no such division was undertaken in the subsequent election, and that the petitioner had contested in 2002 without raising any objection. It is stated that the election process had already commenced and it cannot be interdicted at this stage.

The only question that arises for consideration in this writ petition is as to whether the respondents are under obligation to divide the voters into 11 parts as contemplated under byelaw 28(1) of the Bank.

It is true that the said byelaw mandates that the voters of the Bank must be divided into 11 parts, so that one Director each can be elected from each part. Further, byelaw 28(2) mandates that the President of the Bank must be elected directly by all the voters. This part of it has become redundant, inasmuch as the Act and the Rules have been amended to the effect that the President of the Society must be elected from among the Directors and not directly by the voters.

Howsoever advisable it may be, to divide the total number of voters into eleven parts, the byelaw does not gain any support from the Act or the Rules. Further, different things would have ensued, had it been a case where the membership is traceable to any residential houses, as in the case of gram panchayat. The voters are not restricted to any particular area and they are spread over various places. There is no geographical contiguity of the residences of the members. The arrangement of the voters is also not as per the contiguity of wards etc. Therefore, apart from the fact that no useful purpose would be served, the division of the voters into wards, which is on the basis of the serial numbers, would bring about several complications.

Obviously, for this reason, the voters were not divided into parts in the elections that were held in the year 2002. The petitioner has participated in the elections and in fact, had filed nomination without raising any objection. Whatever be the competence for any other individual to raise an objection on the basis of byelaw 28(1), the petitioner cannot be permitted to object. He cannot be selective in his objection nor he can change his opinions depending on his convenience.

The petitioner contends that the 2nd respondent did not furnish adequate information of the voters. Rule 22 (2) (b) (ii) of the Rules, mandates that necessary particulars of the voters must be furnished. The 1st respondent shall furnish full addresses of the voters, such as, their place of residences as per the record, to the petitioner or any other person, who makes demand.

The writ petition is, accordingly, disposed of upholding the election notification and directing that the programme shall be resumed from the stage where it was stopped; and that the particulars

of the voters shall be furnished. There shall be no order as to costs.

_____

23-08-2007

Prv